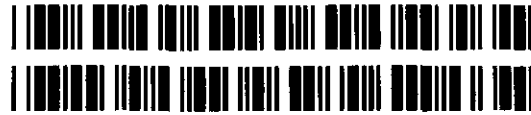


Magistrate Judge



09-CR-05028-PLAGR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES D. KING,

Defendant.

Case No. CR09-5028

PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Casey Newcomb, Special Assistant United States Attorney for said District, and the defendant, CHARLES D. KING, and defendant's attorney, Jerome Kuh, enter into the following Plea Agreement, pursuant to Rule 11(c), Federal Rules of Criminal Procedure.

1. The defendant shall plead guilty to a single-count Information, which charges a violation of Title 18, United States Code, Sections 7 and 13, and R.C.W. 46.61.502 (driving while under the influence of alcohol).

2. Statutory Penalties. Defendant understands and acknowledges that the statutory penalties for the charge contained in the Information are imprisonment for up to one (1) year and minimum imprisonment for twenty-four (24) hours, a maximum fine of up to five thousand dollars (\$5,000) and a minimum fine of three hundred fifty dollars

1 (\$350), a mandatory twenty-five dollar (\$25) special assessment penalty, and a maximum
 2 of one (1) year of supervised release. If the defendant receives a sentence of probation,
 3 the probationary period could be up to five (5) years. The government and the defendant
 4 stipulate for the purposes of sentencing that the BAC was below .150.

5 The defendant understands that supervised release is a period of time
 6 following imprisonment during which the defendant will be subject to certain restrictions
 7 and requirements.

8 The defendant further understands that if supervised release is imposed and
 9 the defendant violates one or more of its conditions, the defendant could be returned to
 10 prison for all or part of the term of supervised release that was originally imposed. This
 11 could result in the defendant serving a total term of imprisonment greater than the
 12 statutory maximum stated above.

13 3. Rights Waived by Pleading Guilty. The defendant understands that, by
 14 pleading guilty, the defendant knowingly and voluntarily waives the following rights:

- 15 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 16 b. The right to a speedy and public trial before a jury of defendant's
 17 peers;
- 18 c. The right to the effective assistance of counsel at trial, including, if
 19 defendant could not afford an attorney, the right to have the Court appoint one for
 20 defendant;
- 21 d. The right to be presumed innocent until guilt has been established at
 22 trial, beyond a reasonable doubt;
- 23 e. The right to confront and cross-examine witnesses against defendant
 24 at trial;
- 25 f. The right to compel or subpoena witnesses to appear on defendant's
 26 behalf at trial;
- 27
- 28

1 g. The right to testify or to remain silent at trial, at which trial such
2 silence could not be used against defendant; and

3 h. The right to appeal a finding of guilt or any pretrial rulings.

4 4. United States Sentencing Guidelines. The defendant understands and
5 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
6 under the United States Sentencing Guidelines (USSG), together with the other factors set
7 forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and
8 circumstances of the offense; (2) the history and characteristics of the defendant; (3) the
9 need for the sentence to reflect the seriousness of the offense, to promote respect for the
10 law, and to provide just punishment for the offense; (4) the need for the sentence to afford
11 adequate deterrence to criminal conduct; (5) the need for the sentence to protect the
12 public from further crimes of the defendant; (6) the need to provide the defendant with
13 educational and vocational training, medical care, or other correctional treatment in the
14 most effective manner; (7) the kinds of sentences available; (8) the need to provide
15 restitution to victims; and (9) the need to avoid unwarranted sentence disparity among
16 defendants involved in similar conduct who have similar records. Accordingly, the
17 defendant understands and acknowledges that:

18 a. The Court is not bound by any recommendation regarding the
19 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
20 range offered by the parties, or by the United States Probation Department; and

21 b. Defendant may not withdraw a guilty plea solely because of the
22 sentence imposed by the Court.
23

24 5. The defendant acknowledges that no one has promised or guaranteed what
25 sentence the Court will impose.

26 6. The government believes that the base offense level for driving while under
27 the influence of alcohol, under the Guidelines, would be 6. The government believes that
28 if the defendant receives a two level reduction for acceptance of responsibility, the base
29

1 offense level would be 4. The government believes that the defendant's criminal history
2 category is I, thus under the Guidelines schedule the defendant's sentencing range would
3 be 0 to 6 months.

4 7. The Ultimate Sentence. The defendant acknowledges that no one has
5 promised or guaranteed what sentence the Court will impose and that the defendant may
6 not withdraw a guilty plea solely because the sentence imposed by the Court may be
7 different from the recommendation of the government.

8 8. Sentencing Recommendation. At the time of sentencing, the government
9 will recommend a period of imprisonment of twenty-four (24) hours, a fine of three
10 hundred fifty dollars (\$350), and the mandatory twenty-five dollar (\$25) special
11 assessment penalty.

12 9. Statement of Facts: The parties stipulate to the following facts in support of
13 the plea:

14 On or about September 13, 2008, at Fort Lewis, Washington, within the
15 Western District of Washington, and within the special maritime and
16 territorial jurisdiction of the United States, the defendant, CHARLES D.
17 KING, drove up the the security gate. The defendant did not stop even with
18 the gate guard, but overshot the position. The guard approached the vehicle
19 and made contact with the defendant. The guard noticed that the
20 defendant's movements appeared to be uncoordinated. The guard could
21 smell alcohol coming from the defendant and saw that the defendant's eyes
22 were bloodshot. The guard instructed the defendant to pull to the side of
23 the road. Military police were notified and responded to that location. An
24 officer contacted the defendant and observed that the defenant's speech was
25 slow and slurred, his eyes were bloodshot and droopy, and there was an
26 obvious odor of alcohol coming from the defendant. The defendant agreed
27 to perform standard field sobriety tests, which in the officer's opinion
28 showed signs of impairment. The defendant was detained and transported
29 to the military police station, where BAC tests were performed with results
of .185 and .175. The defendant was cited and released.

10. Acceptance of Responsibility. The United States acknowledges that
defendant has assisted the United States by timely notifying the authorities of defendant's

1 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
2 and permitting the Court to allocate its resources efficiently.

3 11. Voluntariness of Plea. Defendant acknowledges that he has entered into
4 this Plea Agreement freely and voluntarily, and that no threats or promises, other than the
5 promises contained in this Plea Agreement, were made to induce the defendant to enter
6 this plea of guilty.

7 12. Completeness of Agreement. The United States and the defendant
8 acknowledge that these terms constitute the entire Plea Agreement between the parties.
9 This Plea Agreement only binds the United States Attorney's Office for the Western
10 District of Washington. It does not bind any other United States Attorney's Office or any
11 other office or agency of the United States, or any state or local prosecutor.

12 DATED this 2nd day of MARCH, 2009.

13
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15 
16 CHARLES D. KING
17 Defendant

18
19 
20 JEROME KUH
21 Attorney for Defendant

22
23 
24 CASEY NEWCOMB
25 Special Assistant United States Attorney